

**NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION NO. 2006-981**

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
AMENDING AND RESTATING THE DISTRICT'S ANNEXATION POLICY**

WHEREAS, the Nipomo Community Services District ("District") last updated its Annexation Policy on or about September 10, 2003 ("Annexation Policy"); and

WHEREAS, the Local Agency Formation Commission ("LAFCO") is charged with the authority to review and approve all requests for sphere of influence, annexations, and other changes in organizations to the District; and

WHEREAS, LAFCO considers CEQA for all proposed annexations and sphere of influence changes and other changes in organizations; and

WHEREAS, on or about May 30, 2004, LAFCO adopted a Sphere of Influence Update ("SOI"), Municipal Service Review ("MSR") for the District. Said Sphere of Influence Update and Municipal Service Review are incorporated herein by this reference; and

WHEREAS, as part of the SOI and Municipal Service Review LAFCO considered and certified an Environmental Impact Report. Said Environmental Impact Report ("EIR") is incorporated herein by this reference; and

WHEREAS, on or about January 25, 2006, the District adopted its Urban Water Management Plan ("UWMP");

WHEREAS, on April 26, 2006, May 8, 2006 and May 24, 2006, the Board held public meetings related to amending the District's current Annexation Policy; and

WHEREAS, the District Board of Directors finds that the policies adopted herein by this Resolution do not conflict with the actions taken by LAFCO as referenced above.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT THAT:

1. The amended and restated Annexation Policy, as referenced in Exhibit "A", are hereby approved and adopted.
2. The amended and restated Annexation Policy, Exhibit "A", applies to requests for annexations that have not previously been approved by the District Board of Directors.
3. The Board of Directors finds that the adoption of the amendments to the existing Annexation Policies constitute "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Further, and independently, the District Board of Directors finds that the amendments to the Annexation Policy are within the scope of the program EIR adopted by LAFCO within the meaning of CEQA Guideline §§15168 and 15162 and that no new effects could occur as a result of adopting the amendments to the District's current Annexation Policy. The District

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General Manager is authorized to prepare, execute and file a Notice of Exemption pursuant to the above provisions.

4. The above Recitals are true and correct and incorporated herein by reference and that the Staff Report, reference documents, public comment and Recitals constitute further findings in support of this Resolution.

5. If any section, subsection, sentence, clause or phrase in this Resolution and/or the amended Annexation Policy are for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution and/or the amended Annexation Policy. The District Board of Directors hereby declares that it would have passed this Resolution and/or the amended Annexation Policy, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Upon the motion of Director Eby, seconded by Director Winn, and on the following roll call vote, to wit:

AYES: Directors Eby, Winn, Wirsing, Trotter and Vierheilig
NOES: None
ABSENT: None
CONFLICTS: None

the foregoing resolution is hereby adopted this 24th day of May, 2006.

Lawrence Vierheilig,
President, Board of Directors
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
District Legal Counsel

**THE ANNEXATION POLICY OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
EXHIBIT "A" TO RESOLUTION 2006-981**

I. PURPOSE

In order to promote efficient processing of requests for annexation to the Nipomo Community Services District ("District"), this policy sets forth the framework and standards upon which the Board of Directors will consider such requests and provides notice thereof to the owners of the property that is the subject of such requests.

II. INTENT

The Board of Directors intends to review all annexation requests with the aim of supporting the viability of the District in providing essential services. The District must be operated so as best to provide:

Good quality, economical and dependable water, sewerage and other authorized services for the residents of the Nipomo Community Services District.

The District recognizes San Luis Obispo County Department of Planning and Building's, August, 2004, Resource Capacity Study ("Water Supply in the Nipomo Mesa Area") and the recommendations contained therein and the degradation of the water resources within the Nipomo Mesa Management Area and the need for conservation of natural and environmental resources, including local resources, their availability and quality, consistent with the South County General Plan of San Luis Obispo County.

III. GENERAL POLICIES

- A. Annexations shall provide a reliable water source, other than water from the Nipomo Mesa Management Area also known as the Nipomo Mesa Hydrologic Sub Area. A map of the Nipomo Mesa Hydrologic Sub Area is attached hereto as Exhibit "A".
- B. In order to provide for the orderly development of public service facilities, only those properties will be considered for annexation for which the owners are willing to accept all conditions for service required by the Nipomo Community Services District. Further, requests for annexation solely for sewerage services to the exclusion of water service will be rejected by the Board of Directors, except under extraordinary circumstances.
- C. In order to evaluate the impacts of potential annexations upon the Nipomo Community Services District, the Board will only consider annexation requests that include the submittal of a layout plan, that meets the requirement of Section VI, below, and a completed Annexation application. The District reserves the discretion to require additional information from the Applicant.
- D. If the intended development within the proposed area of annexation requires further County approvals (e.g., zoning or subdivision), the District's approval of the annexation may be conditioned upon the owners obtaining such County approvals before the annexation becomes effective.

**THE ANNEXATION POLICY OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
EXHIBIT "A" TO RESOLUTION 2006-981**

- E. After review of the layout plan and Application, the Board of Directors will consider annexation requests where it can be demonstrated that the benefits of the proposed annexation outweigh the disadvantages of the proposed annexation.
- F. The proposed annexation area boundary shall include all properties that may receive the proposed services to be provided (i.e., use rear property lines rather than streets as boundary lines).
- G. The District is opposed to the formation of homeowners associations or mutual water companies for the operation of water and/or sewer systems in the Nipomo Mesa area.
- H. The applicant shall apply to the Local Agency Formation Commission ("LAFCO") for approval of the proposed annexation.

IV. GENERAL STANDARDS

- A. **Non-Agricultural Uses of Groundwater Basin Water Prohibited:**
Applicants shall covenant, in a form acceptable to District Legal Counsel, for recording at the San Luis Obispo County Recorder's Office, not to pump from the underlying groundwater basin except for agricultural uses and or open space irrigation.
- B. Prior to final LAFCO approval the District shall adopt and forward to LAFCO a Resolution verifying the following:
 - 1. The Applicant has acquired and dedicated to the District's satisfaction, a volume of supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater), equal to that necessary to support full build-out as reflected in the Annexation Application and the Annexation Agreement.
 - 2. The Applicant has complied with the terms and conditions of the Annexation Agreement.
 - 3. That for each connection or potential connection, Applicant has deposited with the District the then current capacity and connection fees and charges for District services.
- C. **California Environmental Quality Act.**
The Applicant shall be responsible for compliance with the California Environmental Quality Act ("CEQA") as part of the LAFCO approval process.
- D. **Water Service:**
 - 1. The District will not set water meters for residential and/or commercial service until such time that the dedicated source of supplemental water is delivered to the District and improvements to be dedicated to the District have been dedicated and accepted by the District.

**THE ANNEXATION POLICY OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
EXHIBIT "A" TO RESOLUTION 2006-981**

2. Final capacity and connection fee charges will be determined and owing at the time the water meter(s) are set by the District.

E. Customers of the District:

Subject to subparagraph D, above, upon annexation, residents and commercial users within the area of the proposed annexation shall become "regular customers" of the District, with no greater entitlements to water service than any other District customer.

F. Cluster Developments:

1. The District will only consider annexations of cluster developments that comply with County policy relating to clustering and that include the requirement for ongoing management of the open space parcel(s) for the purposes of:
 - a. Conserving water drawn from the underlying groundwater basin;
 - b. Preventing the accumulation of solid waste, litter, and construction and demolition waste; and
 - c. Preventing the accumulation of weeds and other fire hazards that would create further demand on the District's water resources.
2. A cluster division is to include at least one (1) open space parcel that may be used for one of the allowable residential units, provided that the building site does not exceed six thousand (6,000) square feet and is defined on the recorded map. Otherwise the open space parcel is not to be developed with structural uses other than agriculture accessory buildings. The open space parcel may be used for any one of the following: crop production or range land; historic site, archaeological preserve, wildlife preserve, water storage or recharge area; leach field, scenic area, protection from hazardous areas; public outdoor recreation; or other similar use.
3. The use and restrictions referenced in Paragraphs 1 and 2 above, are to be guaranteed by a "Dedication", approved in writing by the District, as a party to the "Dedication". The Dedication shall be in the form of an open space easement, recordable agreement, dedication of fee, or partial fee title to a public or quasi-public agency.
4. If the open space parcel is designated for crop production or range land, then the Dedication related to water use shall include:
 - a. Water pumped from the groundwater basin will only be used for agricultural purposes consistent with crop production and/or grazing livestock;
 - b. A reference to the ongoing groundwater adjudication shall be identified, along with a statement that Owner acknowledges that Owner is the party subject to limitations imposed by a Court or

**THE ANNEXATION POLICY OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
EXHIBIT "A" TO RESOLUTION 2006-981**

other agency with jurisdiction related to pumping from the underlying groundwater basin; and

- c. That Owner will not transport water from the open space parcel to other parcels that do not share a common boundary and common ownership with the open space parcel. Under no circumstances shall the Owner transport water from the open space parcel to a residential parcel.
- 5. If the District accepts responsibility for the open space parcel, then Applicant shall form an Assessment District, Special Tax District, or establish an endowment acceptable to District for the purposes of the operation and maintenance of the open space parcel.
- 6. Applicant shall establish a Homeowners Association for the purposes of assuming obligations in Subparagraph 5 above in the event the District is required to abandon the Assessment District or Special Tax District.

V. ANNEXATION AGREEMENT

All applicants for annexation shall be required to enter into an Annexation Agreement. Said Annexation Agreement shall include the following:

- A. That all infrastructure and service line extensions shall be designed and constructed at no cost to District in accordance with District's standards;
- B. Reimbursement to District for its costs in processing the annexation, including administrative costs, legal costs and engineering costs; and
- C. Payment for all applicable District capacity, meter and connection charges.
- D. Dedication to the District of a volume of supplemental water (from a source acceptable to the District other than Nipomo Mesa Management Area groundwater) equal to that necessary to support full build-out of the annexed lands.
- E. The annexation application, layout plan and the District's then current Annexation Policy shall be incorporated into the Annexation Agreement.
- F. Other terms and conditions as determined by the District.

VI. SUBMITTAL OF ANNEXATION APPLICATION AND LAYOUT PLAN

Prior to consideration by the Board of Directors, Applicants must submit an application to the District, demonstrating that the annexation will conform to these Annexation Policies and submit a layout plan for the proposed area of annexation in sufficient detail for the District to assess the full impact of the annexation on the District's water distribution facilities, sewer service and other services to be provided to the area of annexation by the District.